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SUPREME COURT [illegible]

[illegible]

No. 634

WATERMAN STEAMSHIP CORPORATION, [illegible] MAN STEAMSHIP AGENCY, LTD., [illegible] INC. and S. S. CA[illegible]E, HER ENGINES, [illegible]

Petitioners,

vs.

PAN AMERICAN TRADE & CREDIT CORPORATION and SAMAN HNOS.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT.

[illegible] DOWELL GAY,
EDWARD J. B[illegible],
Counsel for Petitioners.

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1946

No. 584

WATERMAN STEAMSHIP CORPORATION, WATERMAN STEAMSHIP AGENCY, LTD., GRACE LINE, INC. AND S. S. CAMPFIRE, HER ENGINES, ETC.,

Petitioners,

vs.

PAN AMERICAN TRADE & CREDIT CORPORATION AND SAMAN HNOS

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT.

Waterman Steamship Corporation, Waterman Steamship Agency, Ltd., Grace Line, Inc. and S. S. Campfire, her engines, etc. pray that a writ of certiorari be issued to review a judgment of the United States Circuit Court of Appeals for the Second Circuit entered in the above-entitled case on July 12, 1946, which affirmed a judgment of the District Court for the Southern District of New York.

This is a case of first impression, there being no decision in the United States or any other country deciding the problem here presented.

The facts were stipulated in the District Court (R. 16, 17 and 18) for the purpose of testing for the first time whether the pro-rata provisions of Clause No. 17 of the bill of lading used by all American carriers in foreign commerce since 1937 are against public policy and in conflict with the Congressional intent expressed in the Carriage of Goods by Sea Act (46 U. S. C. 1304 (5), *et seq.*)

Since the enactment of the statute in 1936 cargo worth billions of dollars has moved in foreign commerce under bills of lading which uniformly have contained the Clause No. 17 which is involved in this case. The matter here presented affects the Marine Industry of the United States. Hundreds of cases are being held in abeyance by underwriters, carriers and shippers pending the final determination of this case which is recognized as the test case to settle the problem.

Opinions

The District Court in a written opinion held that Clause 17 of the bill of lading was illegal, null and void and in contravention of sub. 5 of Sec. 1304 of the Carriage of Goods by Sea Act (R. 20-31). Judgment was entered for libelants for the stipulated sum. The opinion is reported in 64 Fed. Supp. 179.

The opinion of the Circuit Court of Appeals for the Second Circuit affirming said judgment is as yet unreported but may be found in R. 38-42.

Jurisdiction

The jurisdiction of this Court is invoked under the provisions of Sec. 240 (a) of the Judicial Code, as amended by the Act of February 13, 1925.

Statute Involved

The United States Carriage of Goods by Sea Act, Title 46, U. S .C. A., Sec. 1304, par. 5, *et seq.*

Summary Statement of the Matter Involved

After the libel had been filed and the libelants filed exceptions to the respondents' answer, setting forth the provisions of Clause No. 17 as a defense, all interested parties stipulated the facts so that the District Court might render final judgment (R. 16-18). It was agreed that on July 8th, 1943, at New York, the libelants delivered to the respondents (here the petitioners) as common carriers, among other things, two cases of rayon goods in good order and condition to be carried to Guayaquil by the S. S. Campfire (R. 16). Although the shipper did not declare the actual value, the goods contained in one of the cases were of a value of $1,619.47 as stipulated. When discharged from the vessel at destination the case was short nine pieces of rayon having a value of $676.94 (R. 17).

It was admitted that the bill of lading was in the form required by the War Shipping Administration to be used by all agents of the United States of America (War Shipping Administration) in accordance with General Order 16 of July 6, 1942, as amended (R. 17) and that at all times since the effective date of the Carriage of Goods by Sea Act, all bills of lading issued by American Carriers for shipments in Foreign Commerce have contained proration clauses substantially the same as Clause 17 of the bill of lading under which libelants' goods moved (R. 17).

The libelants conceded that they could recover no more than $500.00 because of the statute while the respondents contended that their liability was only $209.00 (41.8% of $500.00) (R. 17-18), because of the pro rating clause (No. 17) in the bill of lading. By the provisions of the bill of lading if the shipper had declared the actual value to be $1,619.47 and such value had been inserted in the bill of lading and extra freight in the amount of 2½% ad valorem

paid, there would be no question that the libelants could have recovered their full loss (R. 19).

Clause No. 17 of the bill of lading is as follows:

> "17. In case of any loss or damage to or in connection with goods exceeding in actual value $500 lawful money of the United States, per package, or, in case of goods not shipped in packages, per customary freight unit, the value of the goods shall be deemed to be $500 per package or per unit, on which basis the freight is adjusted and the Carrier's liability, if any, shall be determined on the basis of a value of $500 per package or per customary freight unit, or pro rata in case of partial loss or damage, unless the nature of the goods and a valuation higher than $500 shall have been declared in writing by the shipper upon delivery to the Carrier and inserted in this bill of lading and extra freight paid if required and in such case if the actual value of the goods per package or per customary freight unit shall exceed such declared value, the value shall nevertheless be deemed to be the declared value and the Carrier's liability, if any, shall not exceed the declared value and any partial loss or damage shall be adjusted pro rata on the basis of such declared value" (R. 9).

The District Court held and the Circuit Court of Appeals has affirmed, that Clause No. 17 is not enforceable as the contract of the parties and is illegal, null and void under the provisions of Title 46, U. S. C. A., Section 1304, par. 5, which section is as follows:

> "(5) Neither the carrier nor the ship shall in any event be or become liable for any loss or damage to or in connection with the transportation of goods in an amount exceeding $500 per package lawful money of the United States, or in case of goods not shipped in packages, per customary freight unit, or the equivalent of that sum in other currency, unless the nature and value of such goods have been declared by the shipper before

shipment and inserted in the bill of lading. This declaration, if embodied in the bill of lading, shall be prima facie evidence, but shall not be conclusive on the carrier.

By agreement between the carrier, master, or agent of the carrier, and the shipper another maximum amount than that mentioned in this paragraph may be fixed; Provided, that such maximum shall not be less than the figure above named. In no event shall the carrier be liable for more than the amount of damage actually sustained.

Neither the carrier nor the ship shall be responsible in any event for loss or damage to or in connection with the transportation of the goods if the nature or value thereof has been knowingly and fraudulently misstated by the shipper in the bill of lading."

Question Presented by This Petition

The sole question presented for determination here is whether the pro-rata provisions of Clause No. 17 of the bill of lading are valid and enforceable as a contract between the parties or whether they are prohibited by the provisions of Title 46, U. S. C. A. 1304, par. 5 *et seq.*

Point I

It Was Not the Intention of Congress in Passing Carriage of Goods by Sea Act to Prohibit Pro-Rata Clauses

The Act was not designed to regulate all clauses contained in bills of lading, as they have existed for generations as a matter of common business practice. It was designed to define certain relationships between carriers and shippers only to the extent that there was complete agreement between these conflicting interests. As to those subjects, such as Both-to-Blame clauses and pro rata clauses, concerning which there was not complete agreement among the divergent interests which sponsored the legislation, the

Act is silent, and leaves unaffected the commercial usage theretofore sanctioned by the courts.

Congress was well aware that prior to the enactment of the Carriage of Goods by Sea Act in 1936, pro rata clauses in bills of lading were perfectly valid and did not operate as an unlawful limitation of liability where the shipper was offered the opportunity to declare the real value of the cargo and pay a small additional rate. Such pro rata clauses frequently came before the District Courts and were uniformly upheld. *Bingham & Co.* v. *Osaka,* 1935 A. M. C. 1103 and *Olivier Straw Goods Corp.* v. *Osaka,* ~~14~~ F. (2d) 717. - 42

The District Court and the Circuit Court have approached the problem on the premise that what the statute does not specifically permit, it prohibits, but the background of this statute clearly indicates that neither the Hague Rules (the forerunner of the American Act) nor the Carriage of Goods by Sea Act was designed to cover the entire relationship between carriers and shippers.

In short, the Act was never intended to be a code of affreightment and consequently it is not legally sound to argue, as the Courts below did, that "if Congress had wished to permit the pro rating of a partial loss it could have done so in a paragraph, in the manner provided in Clause 17 of the bill of lading."

From the time when the first draft was penned in 1921 until 1936 when the Act was enacted, all of those who were conversant with the matter knew that the "international code" would have to be a limited agreement covering only those matters to which it specifically referred and forming a general norm or pattern, after which the individual nations could fashion their individual laws, with such modifications as might be deemed proper to meet the conditions peculiar to each nation. The object was to achieve substantial uniformity in *some fundamentals,* not to legislate *all details* embracing the whole relationship

between shippers and ocean carriers. In the United States it took fifteen years to reach substantial unanimity on merely those matters contained in the Act. Any more ambitious design would have resulted in complete disagreement with endless and fruitless debate.

The necessary limitations of the "code" were recognized at its birth. There was presented at the Conference of the International Law Association, held at London, England, May 17-20, 1921, the draft of what became, with modifications, the Hague Rules.

In the report of the Maritime Law Committee on Bills of Lading presented to that Conference was the statement at page 11:

> "It must be borne in mind that the Harter Act and the Dominion statutes proceed upon the basis of a pre-existing code of liability such as in England and countries which recognize the Common Law is founded upon the provisions of the Common Law.
>
> The international code, however, would not assume the pre-existence of Common Law liabilities, and *would be based upon enacted liabilities and enacted immunities.*
>
> In order to be in a situation to deal with this matter at the Hague Conference, the Committee decided to take steps to obtain the embodiment in a draft code of regulations of such provisions as would in their view give international effect to the *main intentions* of the statutes in question." (Italics supplied.)

The Hague Rules were amended in many respects at the London conference of October 9-11, 1922 and these amendments were necessary only because it was recognized that the rules did not prohibit everything which they did not permit.

Then, again, the necessary limitations on the scope of the Rules were recognized by the delegates of the United States to the International Conference on Maritime Law held at

Brussels, Belgium, October 17-26, 1922. In their report to the President of the United States, dated December 20, 1922, at page 23 thereof:

> "We are agreed that the *projet* is not and does not pretend to be a code of affreightment. It is but a set of rules designed to improve and unify bills of lading regarded as the instruments or means of credit."

Mr. D. Roger Englar, representing cargo interests, recognized the fact the proposed Act was not all inclusive when at the hearing before the Senate Committee on May 10, 1935, he tried to outlaw the Both to Blame Collision Clause. (See minutes, pp. 51-59.)

Then, Senate Report (No. 742, 74th Congress, 1st Session) which accompanied S. 1152, recognized the limited scope of the Hague Rules, when it was said, at page 4:

> "The bill brings the American statute law as to ocean bills of lading into *general accord* with the Brussels convention, *with certain amendments and additional clauses required to adapt the convention to American conditions.* It also will accomplish real uniformity and agreement with many other nations *as to the text of those clauses of ocean bills of lading with which the bill deals.*" (Emphasis supplied.)

Finally, our own Carriage of Goods by Sea Act contains within its very terms numerous exceptions showing conclusively that the Act was obviously not designed to be all inclusive. Section 1(e) of the Act, 46 U. S. Code 1301, provides:

> "The term 'carriage of goods' covers the period from the time when the goods are loaded on to the time when they are discharged from the ship."

In short, this means from tackle to tackle. Previous to the actual loading of the cargo and subsequent to the dis-

charge, the relation of shipper and carrier is covered in part by the Harter Act of 1893 (46 U. S. C. 190-195) under which pro rata clauses are admittedly valid. This distinction is expressly reserved in subsequent provisions in the Carriage of Goods by Sea Act, specifically in 46 U. S. C. 1307 and 1311. By virtue of 46 U. S. C. 1308 the Carriage of Goods by Sea Act leaves unaffected the limitation of liability statutes contained in 46 U. S. C. 181-189 and 46 U. S. C. 801. The provisions of the Shipping Act of 1916, 46 U. S. C. 801, also are reserved in 46 U. S. C. 1309. The Interstate Commerce Act was kept in effect despite the Carriage of Goods by Sea Act, by the provisions of 46 U. S. C. 25. So, too, the Federal Bills of Lading Act of 1916, 49 U. S. C. 81-124, commonly known as the Pomerene Act, is effective. [See express reservation in 46 U. S. Code 1303 (4)].

When one realizes the vast number of problems presented in the carriage of goods by sea, it should be immediately apparent that neither the provisions of the Hague Rules nor of the Act could sensibly extend beyond their exact terms and hope to cover this whole phase of admiralty law. If the Carriage of Goods by Sea Act prohibits everything which it does not specifically allow, then no carrier may insert in bills of lading reasonable clauses covering the forwarding of shut-out goods, clauses protecting the carriers' lien for unpaid freight, Both to Blame collision clauses, provisions for excessively heavy single pieces or packages, provisions for transhipping and forwarding, provisions for lighterage where necessary, general port clauses, provisions concerning coopering, mending, etc.

In judging of Congressional intent concerning pro rating clauses (as to which the Act is silent), the Circuit Court of Appeals referred to certain unpublished opinions of three leading members of the admiralty bar, expressed before

the Shipping Board in September, 1922, about fourteen years before Congress enacted the law (Appellees' brief, pp. 10-13). These three proctors were the late Charles G. Haight, Esq., Roscoe H. Hupper, Esq., and Ira A. Campbell, Esq. of the firm of Kirlin, Campbell, Hickox & Keating.

It should be sufficient answer to say that if these gentlemen held those unpublished opinions before the Brussels conference (October 17-26, 1922), they certainly abandoned such opinions during the next decade and a half. The essentials of the bill of lading before this Court in this case were drawn by Messrs. Haight, Hupper, Cletus Keating (one of Mr. Campbell's partners) and George deForest Lord.

At the Associated North Atlantic Freight Conference held on March 10, 1937, the Committee, composed of these four proctors recommended a uniform bill of lading which was approved by the Conference, put into general use on September 1, 1937 and used ever since. (Knauth on Ocean Bills of Lading [1941 Edition] p. 81; Record, fol. 51). The bill of lading which these gentlemen prepared contains as Clause 17, the very Clause 17 involved in this present controversy, and which, of course, contains provisions for pro rating partial loss on an agreed value of $500.00 per package. (Knauth on Ocean Bills of Lading [1941 Edition] pp. 89-90.)

In the Circuit Court of Appeals, Mr. Campbell's firm filed a brief as *amicus curiae* in support of the Appellants' (here petitioners') position.

The petitioners have maintained throughout that Section 1304 (5) was designed merely to prevent a stipulated value for cargo in an arbitrary amount and that the only change effected in such common commercial clauses as Clause 17 was the requirement that $500.00 be the agreed Value, instead of $100.00 or a small amount of yen or 10 francs. This contention is supported by the actual pub-

lished opinion of Mr. Haight found at Page 4 of the Hearings Before the Committee on the Merchant Marine and Fisheries, House of Representatives, 68th Congress, Second Session, January 28, and 29, 1925 (after the Hague Conference, which was attended by representatives of American interests).

In further support of Mr. Haight's actual opinion that the $500.00 provision was not to prohibit pro rating, but was a valuation clause to stop the practice of placing a nominal value on goods for which no value had been declared, we refer to the hearings before the Committee on the Merchant Marine and Fisheries, House of Representatives, 74th Congress, Second Session, January 28, 1936. The bills of lading there submitted contained pro rata clauses and no criticism of them was offered.

In the last analysis, the Circuit Court's reference to unpublished opinions voiced before the Shipping Board in 1922 should not be permitted to obscure the actual reports of the two Congressional committees. The Senate Report (No. 742, 74th Congress, 1st Session) in favor of the proposed bill, S. 1152, made no reference whatever to either pro rating or the scope of the $500.00 provision. The report of the House Committee directly supports the petitioners' contention that the purpose of this section of the Act was merely to require carriers to insert $500.00 as the stipulated value of a package in place of the nominal value frequently inserted in customary pro rating clauses of bills of lading. The report of the Committee on Merchant Marine and Fisheries (No. 2218, 74th Congress, 2nd Session) approving the bill, contained two sentences bearing directly on the problem before the Court. At page 8 the report is the following:

> "Valuation clauses in bills of lading frequently restrict the recovery of the cargo owner to an agreed

valuation as low as $100. This bill increases that limit to $500 per package or customary freight unit."

Thus clearly and succinctly did the House Committee state exactly the theory urged by the petitioners from the beginning where in their original brief at page 12, it was said:

> "Under the statute, therefore, it is permissble for the carrier and the shipper to agree upon the value of the unit so long as such value is not less than $500.00 if the shipment is actually worth more than that amount. Clause 17 was drawn in exact compliance with the section. The American carriers by their use of bills of lading containing Clause No. 17 have adopted a true valuation clause in the light of the statute and have carried into effect the $500 limitation of liability therein contained. The situation thus arising is exactly the same as those arising in such cases as Bigham & Co. *v.* Osaka, 1935 A. M. C. 1103 (S. D. N. Y.) (Bondy, D. J.), Olivier Straw Goods Corp. *v.* Osaka, 14 F. (2d) 717 (S. D. N. Y.) (Knox, D. J.), Olivier Straw Goods Corp. *v.* Osaka, 42 ~~14~~ F. (2d) 717 (S. D. N. Y.) (Mack, D. J.) with one important exception, namely, the stipulated value can no longer be either a small amount of yen or one pound sterling or $5 in American money. This was the evil to be corrected, and it has been corrected by the insertion in Clause 17 of the five hundred dollar figure, the limit of liability provided in the Act."

Point II

The Decision of the Lower Courts Puts American Carriers at a Disadvantage in World Trade

The District and Circuit Courts have advanced as one ground for declaring that Clause 17 is in conflict with the provisions of the Carriage of Goods by Sea Act that uniformity and agreement with many other nations as to the text of those clauses of ocean bills of lading with which the Act deals would not be accomplished.

Theoretical and complete uniformity could never be achieved. Our American carriers are at an obvious disadvantage compared with British carriers in some trades merely by virtue of the rate of exchange. The limit of agreed value under the British Act is 100 pounds sterling. This is only about $404.00 in American money compared with the $500.00 provision applicable under our Carriage of Goods by Sea Act. This variation is found throughout the world in varying degrees.

But to the extent that there is uniformity established by foreign carriers on such matters as pro rating, the American carriers should not be placed at a further competitive disadvantage by this Court's condemnation of the same clause in Ameriacan bills of lading. The parties to this suit submitted certain bills of lading for consideration by the District Court, which referred to the situation erroneously in its opinion (fol. 90). The Petitioners submitted bills of lading issued by:

(1) Cunard White Star Limited (Voyage including New York, Halifax, London, Cobh, Plymouth, Southampton, Cherbourg and Havre).

(2) Norwegian-American Line (Voyage including east coast of North America and Norwegian ports).

(3) Compagnie Generale Transatlantique (voyage unspecified).

(4) Holland-American Line (voyage between all United States ports and Holland and Belgium via channel ports).

(5) Swedish-American Line (voyage from east coast of North America to Sweden, Finland and the Baltic).

(6) Canadian National Steamships Limited (voyage including *Eastern Canada and United States-Bermuda, West Indies, Bahamas, British Guiana and British Honduras*).

All of the aforementioned bills of lading contain pro rata clauses. The District Court thought that the prevailing practice was that on "shipments from foreign ports to the United States the bill of lading issued does not contain a pro rating clause" (fol. 90). Among other things, the Court completely ignored the bill of lading of the Canadian National Steamship Limited which was issued "subject to the provisions of the Water Carriage of Goods Act, 1936 of the Dominion of Canada" and does apply, by its very terms to cargo carried from Canada *to* the United States. The Canadian Act (1 Edw. 8 ch. 49) contains the Hague Rules practically *verbatim* and this is especially true of Article IV (5). The degree of uniformity sought to be attained by the District Court is actually destroyed and American carriers are put at a further competitive disadvantage, specifically in connection with shipments between the United States and Canada, if this Court approves the invalidation of the *pro rata* provisions of American bills of lading with full knowledge that the same type of clause is contained in bills of lading issued by Canadian carriers covering shipments from Canada to the United States.

The Courts below have ignored the fact that by its terms the bill of lading used by the French Line is used not only in the United States but also for shipments originating in Canada destined for France. (It should be noted that the French Line uses the figure $250.00, thus taking competitive advantage of French Law which fixed the equivalent of 100 pounds sterling at 8,000 French francs when France enacted the Hague Rules in 1936. For at least eight years 8,000 francs have not been the commercial equivalent of 100 pounds sterling or $500 in American currency. Today the French franc has been so devalued that 8,000 francs are worth about $68.00 in American money.

This is the actual obligation today of French carriers under the "uniform" Hague rules!).

The Petitioners ask this Court to grant certiorari to determine whether public policy requires American carriers to be placed at the competitive disadvantage resulting from the decisions in the Courts below.

Point III

The Interpretation by the Circuit Court of Appeals That Section 1303, Par. 8 of the Carriage of Goods by Sea Act Prohibits Clause 17 of the Bill of Lading Is Incorrect.

The lower Courts have held that Article III (8) of the Brussels Convention and 46 U. S. C. 1303 (8) do not mean exactly what they say. The foregoing provision of the Carriage of Goods by Sea Act is as follows:

> "(8) Any clause, covenant, or agreement in a contract of carriage relieving the carrier or the ship from liability for loss or damage to or in connection with the goods, *arising from negligence, fault, or failure in the duties and obligations provided in this section*, or lessening *such* liability otherwise than as provided in this Act, shall be null and void and of no effect." (Emphasis supplied.)

The key to this statutory provision is to be found in the one word "section". (The language of Article III (8) of the Brussels Convention is similarly limited by the use of the word "article".) Section 1303 is without question the most important section of all those contained in the Carriage of Goods by Sea Act from the standpoint of all persons who are interested in the carriage of goods by sea. In this section there are imposed upon carriers the following fundamental obligations:

(1) to use diligence to make the ship seaworthy; properly to man, equip and supply the ship; make the parts of the

ship in which goods are carried safe for the reception, carriage and preservation of the goods; to load, stow and handle the goods properly; to carry, keep and care for and finally discharge the goods carefully;

(2) Upon receipt of the goods to issue a bill of lading showing certain matters specified in the statute;

(3) Under certain circumstances to issue a "shipped" bill of lading.

After establishing these basic responsibilities, Subdivision (8) provides that the carrier may not relieve itself from *those* liabilities. A pro rata clause is not and never has been considered to be one avoiding, lessening or affecting in any way the fundamental liability of a carrier or a ship for negligent carriage of goods.

A consideration of the nature of a pro rata clause would lead to the same conclusion without regard to adjudicated cases. They contain as an integral part a stipulation for the value of the goods. Taken in its entirety a pro rata clause simply says that we, the shipper and the carrier, have agreed upon a value for the goods. If the goods are entirely lost the shipper is to receive the full value, if they are partially lost or partially damaged the shipper is to receive the percentage of the loss or damage, e. g., if it is agreed that the value of the package is $1,000 and if 10% of the package is damaged or lost $100 will be paid; if 60% is lost or damaged $600 will be paid.

There is nothing evil, inequitable or unconscionable in this practice which is so common in other fields as well as in the field of ocean carriage. Insurance contracts for valuable objects are a good example of the application of the fundamental rule in another field. Actually "pro rata" simply means "proportion" and this is the method used in every day affairs in arriving at damage based upon agreed value of the whole unit.

The true function of Sec. 1303, subdivision (8) of the Act, especially with reference to package valuation, is clearly stated in the Handbook of Admiralty Law in the United States by Gustavus H. Robinson, Professor of Law, Cornell Law School, at page 543, as follows:

> "Although no contractual exemption from negligence is valid under the Harter Act, yet package limitations, at least, are valid, even in the case of losses due to negligence. The Carriage of Goods by Sea Act, section 3 (8), 46 U. S. C. A. § 1303 (8), is also explicit in providing that any attempted exemption from negligence is void and of no effect. But the package valuation as set by the act is available to the carrier in all cases."

The only recognized authority in England or the United States who has written expressly on this point is Mr. Arnold Knauth who states in his work, The American Law of Ocean Bills of Lading, 1941 Edition, pg. 208:

> "Such clauses (pro-rata) were valid under the Harter Act; and there is nothing to indicate that their validity has been in any way impaired by the Carriage of Goods by Sea Act."

Conclusion

The decision below is incorrect. It decided a question of substantial general importance involving public policy in connection with the carriage of goods by sea under bills of lading and involving Congressional intention in the enactment of the Carriage of Goods by Sea Act. The decision is the first one in the world interpreting this phase of the Act and its counterpart, Article III (8) of the Brussels Convention. It has upset the uniform practices of the Marine Industry of the United States as they have been followed since 1937. The case has been recognized by all interests as a test case and the disposition of hundreds of

similar cases in which underwriters, carriers and shippers are interested, await the outcome of this case in this Court.

It is respectfully submitted that this petition for a writ of certiorari should be granted.

Russell Conwell Gay,
Edward J. Behrens,
Attorneys for Petitioners.

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